

AMENDED IN ASSEMBLY FEBRUARY 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 312

Introduced by Assembly Member O'Donnell

February 6, 2017

An act to amend Sections 56836.11 and 56836.145 of, and to add Section 56836.146 to, the Education Code, relating to school finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 312, as amended, O'Donnell. School finance: special education funding.

Existing law establishes a public school financing system that requires state funding for county superintendents of schools, school districts, and charter schools to be calculated pursuant to a local control funding formula. Existing law requires the Superintendent of Public Instruction to determine the amount of funding to be provided for each special education local plan area ~~(SELPA)~~ in accordance with specified calculations. *Existing law requires the Superintendent, for the 2013–14 fiscal year, to compute an equalization adjustment for each special education local plan area, as specified.*

~~This bill would express the intent of the Legislature to phase-in equalization of SELPA funding rates to an unspecified percentile, commencing with the full implementation of the local control funding formula. The bill would also express the intent of the Legislature to establish a state funding mechanism to provide all local educational agencies with the funding necessary to establish high-quality preschool programs for California's preschool-age children with disabilities in order to give those children the best chance for educational success in the most cost-efficient manner.~~

This bill would require the Superintendent to compute that equalization adjustment commencing with the first fiscal year after funds are apportioned pursuant to a specified formula and for each fiscal year thereafter in which an equalization appropriation is made, as specified. The bill would require the Superintendent to make certain computations following each year in which an equalization appropriation is made.

The bill would require, commencing with the first fiscal year after funds are apportioned pursuant to a specified formula, a special education local plan area that reports serving children 3 or 4 years of age who meet the definition of an “individual with exceptional needs” to count twice all units of average daily attendance generated by children enrolled in kindergarten less those children eligible for transitional kindergarten, for purposes of calculating units of average daily attendance. By adding to the duties of special education local plan areas, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Special education is a federal- and state-mandated
- 4 educational program that entitles children with disabilities to
- 5 receive a free appropriate public education (FAPE).
- 6 (b) California’s special education funding formula established
- 7 by Assembly Bill 602 of the 1997–98 Regular Session (Chapter
- 8 854 of the Statutes of 1997) (AB 602) does not adequately or
- 9 equitably provide the necessary funding to pay for the true and
- 10 increasing costs of providing educational services to pupils with
- 11 disabilities.

1 (c) State special education funding rates among special education
2 local plan areas vary considerably and have not kept pace with
3 rising special education pupil enrollment.

4 (d) The Legislative Analyst's Office has consistently
5 recommended that the Legislature adopt legislation to equalize
6 special education AB 602 funding rates.

7 (e) The Public Policy Institute of California (PPIC) and the
8 Statewide Special Education Task Force both recommend that the
9 state provide funding for special education equalization.

10 (f) Children who receive high-quality care and education before
11 kindergarten are 40 to 60 percent less likely to require special
12 education interventions when they reach school age.

13 (g) Funding early intervention programs, such as preschool for
14 children with disabilities, provides educational and social benefits
15 to children and results in significant future cost savings to state
16 and local educational agencies.

17 (h) Under the federal Individuals with Disabilities Education
18 Act (20 U.S.C. Sec. 1400 et seq.) and California's special education
19 laws, local educational agencies are required to provide services
20 to children with disabilities beginning at birth to age 22. In
21 California, the only funding designated specifically for
22 preschool-age children with disabilities comes from the federal
23 government.

24 (i) In the 2014–15 fiscal year, local educational agencies
25 reported \$490 million in expenditures for preschool-age children
26 with disabilities to the State Department of Education through the
27 Standardized Account Code Structure, while in the 2014–15 fiscal
28 year, the federal preschool grants appropriated to California only
29 amounted to \$97 million.

30 (j) High-quality public preschool programs for children with
31 significant disabilities are limited or nearly nonexistent in some
32 areas of the state.

33 (k) There has been a significant increase in the population of
34 preschool-age children with autism spectrum disorder, many of
35 whom require intensive services.

36 (l) In March 2015, the Statewide Special Education Task Force
37 recommended that the state establish a new state preschool funding
38 model that is calculated on a per-pupil rate that is based on a set
39 amount of state funding.

~~SEC. 2. (a) It is the intent of the Legislature to phase-in equalization of special education local plan area funding rates established by Assembly Bill 602 of the 1997–98 Regular Session (Chapter 854 of the Statutes of 1997) to the _____ percentile, commencing with the full implementation of the local control funding formula.~~

~~(b) It is further the intent of the Legislature to establish a state funding mechanism to provide all local educational agencies with the funding necessary to establish new or expanded high-quality preschool programs for California’s preschool-age children with disabilities in order to give those children the best chance for educational success in the most cost-efficient manner.~~

SEC. 2. Section 56836.11 of the Education Code is amended to read:

56836.11. (a) For the purpose of computing the equalization adjustment for special education local plan areas for the 1998–99 fiscal year, the Superintendent shall make the following computations to determine the statewide target amount per unit of average daily attendance for special education local plan areas:

(1) Total the amount of funding computed for each special education local plan area exclusive of the amount of funding computed for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area, pursuant to Section 56836.09 for the 1997–98 fiscal year.

(2) Total the number of units of average daily attendance reported for each special education local plan area for the 1997–98 fiscal year, exclusive of average daily attendance for absences excused pursuant to subdivision (b) of Section ~~46010~~ 46010, as that section read on July 1, 1996, and exclusive of the units of average daily attendance computed for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area.

(3) Divide the sum computed in paragraph (1) by the sum computed in paragraph (2) to determine the statewide target amount for the 1997–98 fiscal year.

(4) Add the amount computed in paragraph (3) to the inflation adjustment computed pursuant to subdivision (d) of Section

1 56836.08 for the 1998–99 fiscal year to determine the statewide
2 target amount for the 1998–99 fiscal year.

3 (b) Commencing with the 1999–2000 fiscal year to the 2004–05
4 fiscal year, inclusive, to determine the statewide target amount per
5 unit of average daily attendance for special education local plan
6 areas, the Superintendent shall multiply the statewide target amount
7 per unit of average daily attendance computed for the prior fiscal
8 year pursuant to this section by one plus the inflation factor
9 computed pursuant to subdivision (b) of Section 42238.1 for the
10 fiscal year in which the computation is made.

11 (c) For the 2005–06 fiscal year, the Superintendent shall make
12 the following computation to determine the statewide target amount
13 per unit of average daily attendance to determine the inflation
14 adjustment pursuant to paragraph (2) of subdivision (d) of Section
15 56836.08 and growth pursuant to subdivision (c) of Section
16 56836.15, as follows:

17 (1) The 2004–05 fiscal year statewide target amount per unit of
18 average daily attendance less the sum of the 2004–05 fiscal year
19 total amount of federal funds apportioned pursuant to Schedule
20 (1) in Item 6110-161-0890 of Section 2.00 of the Budget Act of
21 2004 for purposes of special education for individuals with
22 exceptional needs enrolled in kindergarten and grades 1 to 12,
23 inclusive, divided by the total average daily attendance computed
24 for the 2004–05 fiscal year.

25 (2) Multiply the amount computed in paragraph (1) by the
26 inflation factor computed pursuant to subdivision (b) of Section
27 42238.1 for the fiscal year in which the computation is made.

28 (3) Add the amounts computed in paragraphs (1) and (2).

29 (d) Commencing with the 2006–07 fiscal year and continuing
30 through the 2012–13 fiscal year, inclusive, the Superintendent
31 shall make the following computation to determine the statewide
32 target amount per unit of average daily attendance for special
33 education local plan areas for the purpose of computing the
34 inflation adjustment pursuant to paragraph (2) of subdivision (d)
35 of Section 56836.08 and growth pursuant to subdivision (c) of
36 Section 56836.15:

37 (1) The statewide target amount per unit of average daily
38 attendance computed for the prior fiscal year pursuant to this
39 section.

(2) Multiply the amount computed in paragraph (1) by the inflation factor computed pursuant to subdivision (b) of Section 42238.1 for the fiscal year in which the computation is made.

(3) Add the amounts computed in paragraphs (1) and (2).

(e) For the 2013–14 fiscal year, the Superintendent shall make the following computations to determine the statewide target amount per unit of average daily attendance to determine the inflation adjustment pursuant to subdivision (f) of Section 56836.08 and growth pursuant to subdivision (c) of Section 56836.15, as follows:

(1) Total the amount of funding computed for each special education local plan area pursuant to the amount computed in subdivision (b) of Section 56836.08, including the amount of funds appropriated pursuant to Provision 22 of Item 6110-161-0001 of Section 2.00 of the Budget Act of 2013, and excluding the amount of funding computed for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area, for the 2013–14 fiscal year.

(2) Total the number of units of average daily attendance reported for each special education local plan area for the 2012–13 fiscal year, exclusive of the units of average daily attendance computed for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area.

(3) Divide the sum computed in paragraph (1) by the sum computed in paragraph (2).

(f) Commencing with the 2014–15 fiscal year and continuing each fiscal year thereafter, the Superintendent shall make the following computations to determine the statewide target amount per unit of average daily attendance for special education local plan areas for the purpose of computing the inflation adjustment pursuant to subdivision (f) of Section 56836.08 and growth pursuant to subdivision (c) of Section 56836.15:

(1) The statewide target amount per unit of average daily attendance computed for the prior fiscal year pursuant to this section.

(2) Multiply the amount computed in paragraph (1) by the inflation factor computed pursuant to Section 42238.1, as that

section read on January 1, 2013, or any successor section of law enacted by the Legislature that specifies the inflation factor contained in Section 42238.1, as that section read on January 1, 2013, for application to the 2014–15 fiscal year and each fiscal year thereafter.

(3) Add the amounts computed in paragraphs (1) and (2).

(g) *Following each year in which an equalization appropriation is made pursuant to Section 56836.145, the Superintendent shall make the following computations to determine the statewide target amount per unit of average daily attendance to determine the inflation adjustment pursuant to subdivision (f) of Section 56836.08 and growth pursuant to subdivision (c) of Section 56836.15, as follows:*

(1) *Total the amount of funding computed for each special education local plan area pursuant to the amount computed in subdivision (b) of Section 56836.08, including the amount of funds appropriated pursuant to Provision 22 of Item 6110-161-0001 of Section 2.00 of the most recent Budget Act, and excluding the amount of funding computed for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area, for the fiscal year in which the equalization appropriation has been made.*

(2) *Total the number of units of average daily attendance reported for each special education local plan area for the fiscal year preceding the equalization appropriation, exclusive of the units of average daily attendance computed for the special education local plan area identified as the Los Angeles County Juvenile Court and Community School/Division of Alternative Education Special Education Local Plan Area.*

(3) *Divide the sum computed in paragraph (1) by the sum computed in paragraph (2).*

SEC. 3. *Section 56836.145 of the Education Code is amended to read:*

56836.145. (a) ~~For the 2013–14 fiscal year, Commencing with the first fiscal year after funds are apportioned pursuant to subdivision (g) of Section 42238.03, and for each fiscal year thereafter in which an appropriation is made for purposes of this section, the Superintendent shall compute an equalization adjustment for each special education local plan area, exclusive~~

1 of the special education local plan area identified as the Los
2 Angeles County Juvenile Court and Community School/Division
3 of Alternative Education Special Education Local Plan Area, so
4 that the special education funding rate per unit of average daily
5 attendance calculated pursuant to subdivision (c) of Section
6 56836.10 of a special education local plan area is not less than the
7 special education funding rate per unit of average daily attendance
8 calculated pursuant to subdivision (c) of Section 56836.10 that
9 does not fall below more than 10 percent of the total statewide
10 units of average daily attendance for each special education local
11 plan area.

12 (b) The Superintendent shall compute an equalization adjustment
13 for each special education local plan area's special education
14 funding rate per unit of average daily attendance, exclusive of the
15 special education local plan area identified as the Los Angeles
16 County Juvenile Court and Community School/Division of
17 Alternative Education Special Education Local Plan Area, as
18 follows:

19 (1) Multiply the amount computed for each special education
20 local plan area pursuant to subdivision (a) by the average daily
21 attendance used to calculate the special education local plan area's
22 special education funding for the ~~2013-14~~ fiscal year: *year in*
23 *which an appropriation is made for purposes of this section.*

24 (2) Divide the amount appropriated for purposes of this section
25 for the ~~2013-14~~ fiscal year *in which an appropriation is made by*
26 the statewide sum of the amount computed pursuant to paragraph
27 (1).

28 (3) Multiply the amount computed for the special education
29 local plan area pursuant to subdivision (a) by the amount computed
30 pursuant to paragraph (2).

31 (c) For purposes of this section, the statewide 90th percentile
32 special education funding rate determined pursuant to subdivision
33 (a), and the fraction computed pursuant to paragraph (2) of
34 subdivision (b) for the ~~2012-13~~ second principal ~~apportionment~~,
35 *apportionment of the fiscal year preceding any appropriation made*
36 *for purposes of this section*, shall be final, and shall not be
37 recalculated at subsequent apportionments. The fraction computed
38 pursuant to paragraph (2) of subdivision (b) shall not exceed 1.00.

39 SEC. 4. Section 56836.146 is added to the Education Code,
40 immediately following Section 56836.145, to read:

1 56836.146. (a) *In order to provide funding for preschool-aged*
2 *children with special needs, commencing with the first fiscal year*
3 *after funds are apportioned pursuant to subdivision (g) of Section*
4 *42238.03, a special education local plan area that reports serving*
5 *children three or four years of age who meet the definition in*
6 *Section 56026 shall, for purposes of calculating units of average*
7 *daily attendance, count twice all units of average daily attendance*
8 *generated by children enrolled in kindergarten less those children*
9 *eligible for transitional kindergarten as defined in subdivision (d)*
10 *of Section 48000.*

11 (b) *Any growth in average daily attendance generated by the*
12 *adjustment described in subdivision (a) shall be funded at the*
13 *prevailing statewide target rate, as calculated by subdivision (f)*
14 *of Section 56836.11.*

15 SEC. 5. *If the Commission on State Mandates determines that*
16 *this act contains costs mandated by the state, reimbursement to*
17 *local agencies and school districts for those costs shall be made*
18 *pursuant to Part 7 (commencing with Section 17500) of Division*
19 *4 of Title 2 of the Government Code.*